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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

SCOTT CHRISTOPHER WILLIAMS,

Defendant and Appellant.

B223612

(Los Angeles County  
Super. Ct. No. PA065125)

THE COURT:\*

Scott Christopher Williams appeals his judgment of conviction, entered upon a plea of no contest, of violating Health and Safety Code section 11360, subdivision (a), unlawful sale or transportation of marijuana, and Penal Code section 12021, subdivision (a)(1), possession of a firearm by a felon.<sup>1</sup> His appointed appellate counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), raising no issues. Defendant was notified of his counsel's brief and was given leave to file his own brief or letter stating any grounds or argument he might wish to have considered. Defendant submitted a letter to the court, challenging the conviction on several grounds.

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\* BOREN, P. J., ASHMANN-GERST, J., CHAVEZ, J.

<sup>1</sup> All further statutory references are to the Penal Code, unless otherwise indicated.

We have reviewed the entire record and find no arguable issues. Further, defendant has appealed from a judgment entered upon a plea agreement. The trial court denied his application for a certificate of probable cause, and defendant did not seek review of that order. We have determined that the issues raised by defendant do not provide an exception to the requirement of a certificate of probable cause, and we dismiss the appeal.

### **BACKGROUND**

Defendant was charged with four felony counts in 2009, after he was arrested with a codefendant in possession of marijuana, two firearms, ammunition, and reloaded ammunition. The arresting officer, Los Angeles Police Department Officer Frankie Claus, testified at the preliminary hearing that on the afternoon of July 30, 2009, she and her partner were on patrol, when they conducted a traffic stop of an automobile driven by defendant. She searched the vehicle and recovered a shotgun, revolver, ammunition, and a large amount of marijuana. Officer Claus did not testify regarding the justification for the search, as defendant had not filed a motion challenging its legality.

Defendant was held to answer and an information was filed, alleging the four felony counts, and also alleging that defendant had suffered eight prior convictions, as defined by section 667.5, subdivision (b). One of the prior convictions was alleged to have been a serious or violent felony for purposes of sections 667, subdivisions (b) through (i), and 1170.12, subdivisions (a) through (d) (the “Three Strikes” law). Defendant then filed a motion to set aside the information, pursuant to section 995 (995 motion), challenging the sufficiency of the evidence to prove that defendant had been in actual or constructive possession of the marijuana.<sup>2</sup> The 995 motion was denied, and trial was scheduled for January 8, 2010.

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<sup>2</sup> The 995 motion stated that it was based in part on a motion to suppress evidence, but there is no such motion in the appellate record, and defense counsel informed the court at the preliminary hearing that no motion had been filed pursuant to section 1538.5.

On the day set for trial, counsel announced a plea agreement. Defendant would plead no contest to count 2, sale or transportation of marijuana, and count 3, possession of a firearm by a felon, and he would admit a prior felony conviction. In exchange for his plea, defendant would be sentenced to three years on count 2, doubled due to a prior strike conviction, for a total of six years. Defendant would receive two years on count 3, to run concurrently. Defendant was advised of and waived his constitutional rights, pled no contest as agreed, and admitted his 1980 robbery conviction.<sup>3</sup> The court immediately imposed the agreed upon sentence, calculated custody credit, and imposed mandatory fines and fees. The court dismissed the remaining two counts.

Defendant mailed from prison a timely notice of appeal and application for a certificate of probable cause.<sup>4</sup> Defendant's notice of appeal and application stated that he intended to challenge his conviction, by making the following contentions: counsel was ineffective for not moving to strike his 1980 conviction, failing to put on a defense or conduct an investigation, failing to petition for review of the denial of the 995 motion, and failing to object to discretionary sentencing choices or present mitigating evidence; the second strike sentence enhancement was unauthorized because defendant did not waive his constitutional rights when entering a plea in 1980; and the sentencing judge acted under a conflict of interest because he had presided over the preliminary hearing. The trial court denied the application.

### **DISCUSSION**

After defendant was notified that appellate counsel had found no appealable issues after a review of the record, he submitted a letter to this court, contending that there was

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<sup>3</sup> The reporter's transcript reflects that it was codefendant Antwon Hawkins who admitted the robbery conviction, but this is clearly a transcription error, as the information alleged that defendant suffered that conviction; it did not allege that Hawkins suffered it. Further, the prosecutor stated her intention to ask defendant Williams to admit the 1980 conviction of a violation of section 211 in case No. A362104, and the minutes state that it was defendant Williams who made the admission.

<sup>4</sup> See California Rules of Court, rule 8.308(e).

insufficient evidence of his possession of marijuana, the traffic stop leading to his arrest was unlawful, the judge erroneously denied his 995 motion, the 1980 conviction should have been stricken, and he was forced to accept the plea agreement.

A defendant may not challenge the validity of his plea on appeal, unless the trial court has executed and filed a certificate stating there is probable cause for the appeal. (*People v. Cuevas* (2008) 44 Cal.4th 374, 376; *People v. Shelton* (2006) 37 Cal.4th 759, 769; § 1237.5; Cal. Rules of Court, rule 8.304(b).) The requirement is “intended to weed out frivolous and vexatious appeals from pleas of guilty or no contest, before clerical and judicial resources are wasted. [Citation.]” (*People v. Buttram* (2003) 30 Cal.4th 773, 790.)

There are two exceptions to the requirement of a certificate of probable cause: “issues relating to the validity of a search and seizure, for which an appeal is provided under section 1538.5, subdivision (m), and issues regarding proceedings held subsequent to the plea for the purpose of determining the degree of the crime and the penalty to be imposed. [Citations.]” (*People v. Buttram, supra*, 30 Cal.4th at p. 780.) Neither exception applies here. Because defendant did not challenge the validity of the search and seizure by a motion to suppress evidence in the trial court, his contention based upon an allegedly unlawful traffic stop is not cognizable on appeal without a certificate of probable cause. (See § 1538.5, subd. (m).) Once defendant entered his plea, the trial court immediately imposed the agreed upon sentence. Thus, there was no proceeding subsequent to the plea regarding the degree of the crime or the penalty to be imposed.

As no exception applies in this case to section 1237.5, we conclude that defendant was required to obtain a certificate of probable cause, and because he did not do so, the appeal must be dismissed. (*People v. Hodges* (2009) 174 Cal.App.4th 1096, 1112.)

Because of counsel’s compliance with the *Wende* procedure and our review of the record, we conclude defendant has received adequate and effective appellate review of the judgment entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113.)

## **DISPOSITION**

The appeal is dismissed.

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